

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

FILED  
U.S. DISTRICT COURT

2014 NOV -7 PM 4:47

S.D. OF N.Y.W.P.

-----X  
MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address  
173.68.0.228,

Defendant.  
-----X

Civil Action No. \_\_\_\_\_

**COMPLAINT – ACTION FOR  
DAMAGES FOR PROPERTY  
RIGHTS INFRINGEMENT**

**14 CIV. 8900**

**JUDGE BRICCETTI**

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address  
173.68.0.228, and alleges:

**Introduction**

1. This matter arises under the United States Copyright Act of 1976, as amended, 17  
U.S.C. §§ 101 et seq. (the “Copyright Act”).

2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed,  
Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the  
copyrighted movies set forth on Exhibit B.

3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the  
“Copyrights-in-Suit”).

**Jurisdiction And Venue**

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §  
1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair  
competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

### **Parties**

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

**Factual Background**

*I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights*

11. The BitTorrent file distribution network ("BitTorrent") is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent's popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer's BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit ("bit hash") acts as that bit's unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value ("file hash"), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the

BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first

publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

**Miscellaneous**

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

**COUNT I**  
**Direct Infringement Against Defendant**

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the

works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

(D) Award Plaintiff statutory damages per infringed Work pursuant to 17 U.S.C. § 504-(a) and (c);

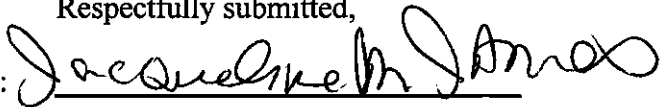
(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

(F) Grant Plaintiff any other and further relief this Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

By: 

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*Attorneys for Plaintiff*

## File Hashes for IP Address 173.68.0.228

ISP: Verizon FiOS

Physical Location: Scarsdale, NY

Hit Date UTC	File Hash	Title
10/01/2014 01:55:27	957170E4DA93002449D455E16CD72C0C76414A24	Fucking Goddesses
09/17/2014 18:41:13	24AC57A3D0FE1F9A4F764BF24D3C76B14813999B	Black and White
09/17/2014 12:33:37	90E692A0ACFEB631698F4FFCEACACD140C38891C	Loving Angels
09/17/2014 07:51:51	714B975D8B8E1ED2BB07EA43906F599F95EC5E4C	Lovely Lovers
09/17/2014 04:29:45	488A0F27CB97745A6772353E34FA19E702DADE29	Afternoon Picnic
09/17/2014 04:22:16	1BEF5A8F06E2B25B15CB5DAB5075E78392D7A5F2	Good Vibrations
09/17/2014 03:54:37	22125D8DEDBEA36229A7E9874F9A76F396FEB8C1	Come To Me Now
09/17/2014 03:23:39	EB84EA53E74BC79A04865A27BA62404141454390	Warm Inside
09/17/2014 02:36:59	11BBD0678BDD5759E5D8BB9B0CB398ADB9A7D2E2	The Sleepover
09/17/2014 02:08:42	A9F5E03C948D4E7579763C445E03F462A7D2F2B8	It Is A Fine Line
09/15/2014 16:22:03	AFAC958FA72FE99979C67EEBECDCFF23FE709D30	Four Ways
09/15/2014 13:01:51	98B34F8EB0C9A2CD938995D5C15BB6A7C147CC40	Shes Not Alone
09/15/2014 12:52:23	78DA24844057E8FDCD7B3B0C97DF195F17FCEC67	Precious Metal
09/08/2014 20:00:30	5C5754B5C8331B230119E97332848690BD0EB76F	Our Little Cum Cottage
08/27/2014 23:02:47	473F05FC2C3EF22B801E18E34D27E4785342F285	Teenage Dream
08/27/2014 18:32:27	427D83F0D02D050C5E36F20EFA94C4B6F7CA8A6D	Sunday Afternoon
08/27/2014 18:31:58	CB505B2E122D8449E85B64DF60AABD8A4E6943C8	Girly Girls
08/27/2014 10:36:40	1C9EF8F520829037C3AFB94DE61A75D1BEFECDB9	Silver Bullets
08/19/2014 15:06:06	06304244D3F23A4E1C531BD9D35D8DAEC004C96D	Just Jennifer
08/17/2014 17:36:24	375C0505BC8B5CE1AB37C7B645721C5B81A60957	Pretty Bad Girl
08/06/2014 13:56:24	1402612A99DB45832B9603CDC7150812B8691E5D	Waterfall Emotions
08/02/2014 20:59:02	AD6C1AD8FCBA53716EA0396B4FB289EDAC788DF6	From Three to Four

EXHIBIT A

SNY13



Hit Date UTC	File Hash	Title
07/17/2014 16:34:08	2E6C1013BB4CCAEA05E359D66BB514B5C88DE14C	Come Close
07/17/2014 16:30:16	83CA6D53AA3BF1F4E69C0CA7073D885B1A48531E	Au Paradis
07/17/2014 02:33:34	BC595F75F5D2747F382B845C19F4D51CCCCB5A1F	All Tied Up
07/17/2014 01:59:15	23E25904FFA921E91DD38E0D0EF7B1EB1A77F7E1	Lonesome Without You
07/10/2014 19:03:54	221154C63C9318CCC8402F0580BBE4E83F5F6161	Sweet Awakening
07/03/2014 12:42:39	5E64C4F49D3425581DE8A79ACDFA71D59476740A	Cut Once More Please
06/26/2014 02:51:11	309EEA52C9625E8912CF8BA075FF411098281DA3	Drinks For Two
06/26/2014 01:06:44	F94AA0F525780F3929F38CD2E9B7760CBACE4862	They Seem so Sweet
06/08/2014 19:36:22	61A9FAF7574D48FCB656BD866BE4BFB84A498CF9	Dancing Romance
05/30/2014 00:09:40	0179A1332F7CEBBF66DC1AE322BDDE0996FAF1FE	Morning Glory
05/15/2014 21:22:52	5AD7B95FFA75C4606F63B6E16A793974AC0B7567	Knock On My Door
04/09/2014 01:24:12	C2A03B88B210A0F17F3D19181222D8C46DE1B420	Pink Perfection
03/30/2014 15:31:41	0260EBD4C4ABA9E3288657263F8958884A130F5E	I Love X Art
03/28/2014 06:38:00	FF723980C2C688152735FDFE6F2809456FE41C80	Sweet Surrender
03/28/2014 06:01:17	568DFC435ACFEA9BB0C6A1E7435D97D073731A63	Remembering Strawberry Wine
03/19/2014 05:40:53	234EB9BBD70918A88AF31635A11F8E7F7C17ED6B	Fashion Fantasy
03/03/2014 22:02:48	8703E222540294A3D0580285C1CD3750F76A60DC	Pretty Babies
03/01/2014 19:28:22	4EAF12772FE00F106FD91610E5325F1BFF87C75A	Three Way is the Best Way
03/01/2014 17:41:35	ECE7E8A1D66E71309219C222E5BAF71DEC916CF1	Morning Meditation
02/10/2014 18:44:10	728CAE61541054A512F692033D7A5325A6C3DCBC	Deep Longing
02/10/2014 12:30:44	38B29045632EB116F6BD4FFAA96ED0E62F9A9BE4	Silvie Euphrat Strip Poker
02/08/2014 18:40:53	8D15564C6397C7E568EC18EDFD8F1CB93D9F8680	Like The First Time
02/08/2014 18:05:01	AF7185E0839CC5F9456A080B064763E824B1A538	The Way I Feel
02/08/2014 13:59:13	EA9FA5106CFE7867FF61599D56FDEB6CD8E02765	Underwater Lover
01/25/2014 01:51:58	EC0661529A622CED78AB266615036AABDEFC0906	They Only Look Innocent

EXHIBIT A

Hit Date UTC	File Hash	Title
12/28/2013 09:35:15	311A8E26ED4424724DE07C5C53FC2882F2ECD3C5	Santas Little Helper
12/24/2013 05:23:19	859265F75EC56E7B89C8C21F07DBFE0CA99B54CF	Dream Come True
12/23/2013 22:24:10	6E6F00447782DB434A47FB56D9BFD57A0A3F2614	Roommates
12/23/2013 11:14:23	9EB2EB166439A393FB057A0249EC686B75B8512B	Russian Invasion
12/23/2013 11:13:25	53F9E0BD58B2006ADA9503BFD9D96221EED92D57	Come To My Window
12/22/2013 21:18:25	180669EEA56DBF08761A7EC2939B70D107A31D4D	First Love
12/11/2013 18:52:56	0BA70C8B952A40B372C55F8FB7BE86D9CBAE128C	Only Lorena
12/04/2013 18:17:03	BE718DF3EBE7435D95856CD0D63053FDD470F72F	I Want to Tell You
11/28/2013 00:01:14	BBD83E6D52EDD0B97D6B74C4A31116C827A75155	Introducing Mila
11/27/2013 18:30:53	65444F3161FA032B3D5DFC1E14DBA4324CE2364F	Blindfold Me and Tie Me Up
11/27/2013 18:18:10	B3452C59A4168E85544EACD8ECB394D40FF25153	Girl in a Room
11/22/2013 06:03:27	32C8E09B8C06CE9D3ABDDA07BF36485EC662C2EE	Through the Looking Glass
11/21/2013 21:25:18	F98E84A5D71C30D9A1BEC94E55B51B2D8085B112	Only Girls
11/21/2013 20:36:10	06481EA008E99B0570CD4F0FF1F60F519528C984	Triple Threat
11/21/2013 06:55:06	A380120BF80B0C9C77B5E10535092741CC12663C	Together at Last
11/21/2013 06:31:03	30C0C6AAAD4E38ACC2D09FB86F9E427C02504471	Finding Elysium
11/21/2013 06:01:44	D01FC19766D36957E36620605ACE01B61E7289F6	Unveiling Part #2
11/21/2013 04:49:23	8A9916DF81F0E99C2067407F27B6149D869A42F3	Sapphic Waltz
11/21/2013 04:35:41	7DA7960DD2842B3E2E07CF3984175B1F74F4D633	Lipstick Lesbians
11/21/2013 04:29:41	6668C6F6BA0D4CD1F1F6658FB2BD0660372C51AC	Close to the Edge
11/21/2013 01:52:30	D46C72FD478307182F7A4A99FA6FEA9C1F697F3C	So Close Together
11/21/2013 00:49:41	DFEA3BF5C9B2760B4A25C1000D0AD8F92BBB887C	Unveiling Part #1
11/20/2013 21:41:36	2E0D4EC8052DAA181237CD079C030CC488091DCB	Hot Brunettes

**Total Statutory Claims Against Defendant: 70**

EXHIBIT A

## Copyrights-In-Suit for IP Address 173.68.0.228

ISP: Verizon FiOS

Location: Scarsdale, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Afternoon Picnic	PA0001826998	02/15/2013	02/18/2013	09/17/2014
All Tied Up	PA0001866077	10/19/2013	10/21/2013	07/17/2014
Au Paradis	PA0001895846	05/05/2014	05/16/2014	07/17/2014
Black and White	PA0001831226	02/22/2013	03/07/2013	09/17/2014
Blindfold Me and Tie Me Up	PA0001867888	11/01/2013	11/03/2013	11/27/2013
Close to the Edge	PA0001800579	08/06/2012	08/07/2012	11/21/2013
Come Close	PA0001905140	06/23/2014	06/30/2014	07/17/2014
Come To Me Now	PA0001892181	04/21/2014	04/29/2014	09/17/2014
Come To My Window	PA0001799576	07/27/2012	07/31/2012	12/23/2013
Cut Once More Please	PA0001905491	07/01/2014	07/02/2014	07/03/2014
Dancing Romance	PA0001903915	06/07/2014	06/12/2014	06/08/2014
Deep Longing	PA0001825722	02/05/2013	02/07/2013	02/10/2014
Dream Come True	PA0001800356	07/13/2012	07/20/2012	12/24/2013
Drinks For Two	PA0001905512	06/25/2014	07/02/2014	06/26/2014
Fashion Fantasy	PA0001885185	03/13/2014	03/24/2014	03/19/2014
Finding Elysium	PA0001814784	11/15/2012	11/19/2012	11/21/2013
First Love	PA0001806476	09/05/2012	09/25/2012	12/22/2013
Four Ways	PA0001914532	09/13/2014	09/16/2014	09/15/2014
From Three to Four	PA0001898059	05/19/2014	06/06/2014	08/02/2014
Fucking Goddesses	PA0001916051	09/30/2014	10/06/2014	10/01/2014
Girl in a Room	PA0001860968	08/07/2013	09/06/2013	11/27/2013

## EXHIBIT B

SNY13

<b>Title</b>	<b>Registration Number</b>	<b>Date of First Publication</b>	<b>Registration Date</b>	<b>Most Recent Hit UTC</b>
Girly Girls	PA0001862284	08/28/2013	09/08/2013	08/27/2014
Good Vibrations	PA0001800359	07/02/2012	07/09/2012	09/17/2014
Hot Brunettes	PA0001865957	10/03/2013	10/06/2013	11/20/2013
I Love X Art	PA0001833296	03/29/2013	04/01/2013	03/30/2014
I Want to Tell You	PA0001872082	11/27/2013	12/04/2013	12/04/2013
Introducing Mila	PA0001859652	07/23/2013	08/01/2013	11/28/2013
It Is A Fine Line	PA0001880437	02/15/2014	02/21/2014	09/17/2014
Just Jennifer	PA0001903842	06/09/2014	06/12/2014	08/19/2014
Knock On My Door	PA0001895763	05/09/2014	05/16/2014	05/15/2014
Like The First Time	PA0001778844	02/29/2012	02/29/2012	02/08/2014
Lipstick Lesbians	PA0001817755	12/15/2012	12/17/2012	11/21/2013
Lonesome Without You	PA0001887108	04/03/2014	04/07/2014	07/17/2014
Lovely Lovers	PA0001787330	04/18/2012	04/18/2012	09/17/2014
Loving Angels	PA0001817752	11/30/2012	12/17/2012	09/17/2014
Morning Glory	PA0001902968	05/29/2014	06/06/2014	05/30/2014
Morning Meditation	PA0001882650	02/27/2014	03/06/2014	03/01/2014
Only Girls	PA0001852678	06/24/2013	06/27/2013	11/21/2013
Only Lorena	PA0001847654	06/02/2013	06/18/2013	12/11/2013
Our Little Cum Cottage	PA0001914537	09/05/2014	09/17/2014	09/08/2014
Pink Perfection	PA0001887098	04/07/2014	04/07/2014	04/09/2014
Precious Metal	PA0001908248	07/27/2014	07/31/2014	09/15/2014
Pretty Babies	PA0001835953	04/05/2013	04/29/2013	03/03/2014
Pretty Bad Girl	PA0001909504	08/14/2014	08/26/2014	08/17/2014
Remembering Strawberry Wine	PA0001885184	03/11/2014	03/24/2014	03/28/2014
Roommates	PA0001786265	04/10/2012	04/11/2012	12/23/2013

## EXHIBIT B

<b>Title</b>	<b>Registration Number</b>	<b>Date of First Publication</b>	<b>Registration Date</b>	<b>Most Recent Hit UTC</b>
Russian Invasion	PA0001808629	09/26/2012	09/28/2012	12/23/2013
Santas Little Helper	PA0001874520	12/23/2013	12/30/2013	12/28/2013
Sapphic Waltz	PA0001843110	05/07/2013	05/14/2013	11/21/2013
Shes Not Alone	PA0001914535	09/09/2014	09/16/2014	09/15/2014
Silver Bullets	PA0001790373	05/13/2012	05/16/2012	08/27/2014
Silvie Euftrat Strip Poker	PA0001775909	02/06/2012	02/17/2012	02/10/2014
So Close Together	PA0001860976	08/09/2013	09/08/2013	11/21/2013
Sunday Afternoon	PA0001800353	07/06/2012	07/11/2012	08/27/2014
Sweet Awakening	PA0001907077	07/09/2014	07/27/2014	07/10/2014
Sweet Surrender	PA0001884861	03/23/2014	03/26/2014	03/28/2014
Teenage Dream	PA0001791491	05/29/2012	06/01/2012	08/27/2014
The Sleepover	PA0001838600	04/23/2013	04/28/2013	09/17/2014
The Way I Feel	PA0001874745	01/08/2014	01/15/2014	02/08/2014
They Only Look Innocent	PA0001877471	01/24/2014	01/31/2014	01/25/2014
They Seem so Sweet	PA0001904151	06/15/2014	06/19/2014	06/26/2014
Three Way is the Best Way	PA0001878426	02/04/2014	02/13/2014	03/01/2014
Through the Looking Glass	PA0001851980	06/30/2013	07/05/2013	11/22/2013
Together at Last	PA0001846096	05/18/2013	06/16/2013	11/21/2013
Triple Threat	PA0001860961	08/13/2013	09/02/2013	11/21/2013
Underwater Lover	PA0001806474	09/17/2012	09/20/2012	02/08/2014
Unveiling Part #1	PA0001863105	09/19/2013	09/23/2013	11/21/2013
Unveiling Part #2	PA0001866188	10/15/2013	10/19/2013	11/21/2013
Warm Inside	PA0001820856	01/11/2013	01/13/2013	09/17/2014
Waterfall Emotions	PA0001817757	12/05/2012	12/16/2012	08/06/2014

**Total Malibu Media, LLC Copyrights Infringed: 70**

**EXHIBIT B**

**SNY13**